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BARBARA GRUTTER,
Petitioner,
v.
LEE BOLLINGER, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

BRIEF OF AMICI CURIAE AMERICAN COUNCIL ON EDUCATION AND 52 OTHER HIGHER EDUCATION ORGANIZATIONS IN SUPPORT OF RESPONDENTS

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AMICI ON THIS BRIEF

American Council on Education
American Anthropological Association
American Association of Colleges for Teacher Education
American Association of Colleges of Nursing
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities
American Association of University Professors
American Association of University Women
American College Personnel Association
American Dental Education Association
Association of Academic Health Centers
Association of American Universities
Association of Baccalaureate Social Work Program Directors, Inc.
Association of Catholic Colleges and Universities
Association of Chiropractic Colleges
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Independent Colleges and Universities in Massachusetts
Association of Independent Colleges and Universities of Michigan
Association of Independent Colleges and Universities of Pennsylvania
Association of Independent Colleges of Art and Design
Association of Jesuit Colleges and Universities
College and University Professional Association for Human Resources
Connecticut Conference of Independent Colleges
Council for Advancement and Support of Education
Council for Christian Colleges and Universities
Council for Higher Education Accreditation
Council for Higher Education of the United Church of Christ
Council for Opportunity in Education
Council of Graduate Schools
Council of Independent Colleges
Council on Social Work Education
Educational Testing Service
Educause
Group for the Advancement of Doctoral Education in Social Work
Hispanic Association of Colleges and Universities
Mennonite Education Agency
National Association for College Admission Counseling
National Association for Equal Opportunity in Higher Education
National Association of College and University Business Officers
National Association of Deans and Directors of Schools of Social Work
National Association of Independent Colleges and Universities
National Association of Social Workers
National Association of State Universities and Land-Grant Colleges
National Association of Student Financial Aid Administrators
National Association of Student Personnel Administrators
National Collegiate Athletic Association
Society for College and University Planning
United Negro College Fund
United States Student Association
University Continuing Education Association
Washington Association of Independent Colleges and Universities

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BRIEF OF *AMICI CURIAE* AMERICAN COUNCIL ON EDUCATION AND 52 OTHER HIGHER EDUCATION ORGANIZATIONS

All parties consent to the filing of this brief.[1]

STATEMENT OF THE INTEREST OF *AMICI*

Amici are 53 associations of colleges, universities, educators, trustees, and other representatives of higher education in the United States. *Amici* represent public, independent, large, small, urban, rural, denominational, non-denominational, graduate, and undergraduate institutions and faculty. Ameri-

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[1] No party or its counsel authored this brief in whole or in part nor made a monetary contribution to *amici* for the preparation or submission of it.

can higher education institutions enroll 15 million students. For decades *amici* have worked to achieve student diversity.

Amicus American Council on Education ("ACE") represents all higher education sectors. Its approximately 1800 members include a substantial majority of United States colleges and universities. Founded in 1918, ACE seeks to foster high standards in higher education, believing a strong higher education system to be the cornerstone of a democratic society. Among its initiatives, ACE had a major role in establishing the Commission on Minority Participation in Education and American Life, chaired by former Presidents Ford and Carter, which issued *One-Third of a Nation* (1988), a report on minority matriculation, retention, and graduation. The Addendum contains information on the other *amici* on this brief.

SUMMARY OF ARGUMENT

The preeminence of American higher education results in part from a tradition unique among leading nations of forbearance by courts, the Executive, and Congress with respect to asserting authority over college and university educational policy. From the nation's founding to the present, the government at key junctures chose to give the institutions and their faculties more, not less, latitude to make judgments about how to conduct higher education. The Court has taken that course repeatedly in its decisions about higher education, from *Trustees of Dartmouth College v. Woodward*, 17 U.S. (4 Wheat) 518 (1819), to date. The other branches adopted a similar approach in pivotal decisions such as the determination in the Republic's early days not to found a national university; the Morrill Land-Grant Act of 1862; the GI Bill; and the design of the contemporary federal student aid system.

Statements by higher education leaders and the associations that represent a broad range of higher education constituencies and institutions demonstrate their belief that racial and

ethnic student diversity advances higher education. As educators came to see the benefits such diversity brings to higher education, nearly all leading colleges and universities sought admission of more students from underrepresented groups, adding race and ethnicity to the traditional range of diversity-enhancing factors.

Diversity is basic to higher education's main purposes: to enable students to lead "the examined life"; to ready them to maintain the robust democracy in which we live; and to prepare them to function in the national and global economy. Those aims entail breaking down barriers that isolate the student from the world he or she needs to know. Although not the only kind of student diversity colleges and universities seek, racial and ethnic diversity is necessary if there is to be genuine diversity. Race and ethnicity do not dictate viewpoint. But personal background affects life experience, and communication of insight drawn from experience is central to higher education. Social science confirms that interactions student diversity fosters, and institutional commitment to it, are associated with academic success, growth in acceptance of those from different backgrounds, retention of minority students, and other educational benefits for all students.

Those responsible for higher education have a critical burden. They must produce the cohort that will guide the nation in the vocations, educate those who will govern it, and meet this society's pressing needs. On their success the liberty, prosperity, and world leadership of the United States depend. Government's interest in fostering and not impeding higher education is manifestly compelling.

ARGUMENT

I. THE QUALITY OF AMERICAN HIGHER EDUCATION IS ROOTED IN GOVERNMENTAL FORBEARANCE.

"The characteristic danger of great nations is * * * that they may at last fail from not comprehending the great institutions which they have created." Robert H. Bork, *The Limits of Governmental Regulation, in The University and the State: What Role for Government in Higher Education?* 170 (S. Hook *et al.* eds., 1978) (quoting Walter Bagehot).

American higher education is preeminent in the world and a beacon to other countries, which send more than one-half-million students annually to American institutions. A majority of the world's leading universities are here. Henry Rosovsky, *The University, an Owner's Manual* 29 (1990) ("fully two-thirds to three-quarters of the best universities in the world" are in the United States). The United States leads the world in the average total number of years of education. United Nations Dev. Programme, *Human Development Report 1993*, at 194 (1993). Our nation invests in higher education more resources per student than any other. Organization for Econ. Cooperation and Dev., *Education at a Glance: OECD Indicators* 92 (1993). The American professoriate is regarded as the most accomplished. Philip G. Altbach, *An International Academic Crisis? The American Professoriate in Comparative Perspective*, 126 Daedalus 315 (1997). American professors were awarded more than half of science Nobel prizes in the past 50 years. *The World Almanac and Book of Facts* 286-287 (2003). Education ministers from around the world visit in great numbers to study our institutions. *Remarks of U.S. Secretary of Educ. Richard Riley, The Growing Importance of International Education* (Apr. 19, 2000) (*available at* http://exchanges.state.gov/iep/riley 419.htm). Graduates of American colleges and universities serve in leadership roles in this and other countries to an extent unequalled by any nation in history.

How did it come to be that American higher education sets the world standard? This was not an accident. A long tradition, nearly unique among nations, of government forbearance with respect to educators' judgment figured prominently. Since the founding of the Republic, this Court, the Executive, and Congress, in key judicial and policy decisions, chose to grant colleges and universities more, not less, authority in conducting higher education. *See* Martin Trow, *Federalism in American Higher Education, in Higher Learning in America 1980-2000* (Arthur Levine ed., 1993); John S. Brubacher and Willis Rudy, *Higher Education in Transition: A History of American Colleges and Universities* 9 (4th ed. 1997)(1958). American universities are accorded "greater freedom from government supervision than higher education enjoys in any other major country of the world." Derek Bok, *Higher Learning* 14 (1986).

The Court has assigned the highest value to giving the institutions final authority to make educational judgments. *Trustees of Dartmouth College v. Woodward,* 17 U.S. (4 Wheat) 518 (1819), held that a state lacked power to alter a college's charter. The Court there confronted the question, is government or a college's board of trustees better suited to govern a college? Justice Marshall's opinion acknowledged that a college would sometimes err, but, he held, its decisions in educational matters were more likely to be reliable than those of a legislature. *See* 1 James Kent, *Commentaries on American Law* 416-417 (O.W. Holmes ed., 12th ed. 1873). The conduct of higher education, the Court saw, was too important to be wrested from the educators.

The Court proceeded to reinforce colleges' and universities' authority in the educational sphere. Cases arose in the context of tensions between legislatures and higher education institutions over questions of taxation and contract. Could a state legislature lawfully tax a university whose charter exempted it from tax? More than the power to tax was at stake, as that power implicated broader government influence

over higher education. *Cf. M'Culloch v. Maryland*, 17 U.S. (4 Wheat) 216, 431 (1819). The seemingly unassailable argument that a legislature should not be able to "bargain away forever the taxing power of the State" weighed in favor of governmental authority. *Washington Univ. v. Rouse*, 75 U.S. (8 Wall.) 439, 443 (1869) (Miller, J., dissenting). Yet the Court upheld the institutions' autonomy, *see, e.g., id.* at 440; *University v. People*, 99 U.S. 309, 310, 325 (1878), presuming that they would act in accordance with their educational purposes. *Washington Univ.*, 75 U.S. at 440-441.

On questions ranging from administration of a private university's endowment, *Taylor v. Columbian Univ.*, 226 U.S. 126 (1912), to a public university's discretion to require military training, *Hamilton v. Regents of Univ. of Cal.*, 293 U.S. 245 (1934), the Court declined to substitute its judgment for the institutions'. In *Taylor*, for example, the Court upheld the university's administration of a scholarship where the charitable purpose was accomplished "in some degree, at least." *Id.* at 136 (quotation omitted).

The Court extended the principle in the 20th century to the interplay of constitutional due process and a university's autonomy over its students. In *Board of Curators of the University of Missouri v. Horowitz*, 435 U.S. 78 (1978), the Court held that the Fourteenth Amendment Due Process Clause does not require a university to provide a hearing before dismissing a student on academic grounds. *Id.* at 87. The Court weighed the interest in protecting students from arbitrary dismissal against "harm to the academic environment" that would result from "[j]udicial interposition" in university affairs. *Id.* at 91. Although the student's interest was "weighty" because she would be unable to continue her medical education, *id.* at 100 (Marshall, J., concurring in part and dissenting in part), the Court "decline[d] to ignore the historic judgment of educators" that a hearing should not be required. *Id.* at 90 (opinion for the Court). To "enlarge the

judicial presence in the academic community," the Court said, would "risk deterioration." The Court thus determined not to intervene in the academic decision; doing so would "raise problems * * * requiring care and restraint." *Id.* at 90-91.

Forbearance with respect to educational judgment figured in *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957), where a university lecturer declined to answer a state attorney general's questions about the content of his lectures. The inquiry, Chief Justice Warren said, "unquestionably was an invasion * * * of academic freedom and political expresion—areas in which the government should be extremely reluctant to tread.* * * To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation." *Id.* at 250. Justice Frankfurter in concurrence cited " 'four essential freedoms' of a university—to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study." *See Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 312 (1978) (opinion of Powell, J.) (quoting *Sweezy*, 354 U.S. at 263 (Frankfurter, J., joined by Harlan, J., concurring in the result)). "[W]ho may be admitted to study" is paradigmatic academic judgment. *See id.* at 312; *see also id.* at 405 (opinion of Blackmum, J.); *id.* at 367 n.42 (opinion of Brennan, J.) ("The Regents, not the legislature, have the general rule-making or policy-making power with regard to the University.").

The Court further extended the principle of forbearance in *Regents of the University of Michigan v. Ewing*, 474 U.S. 214 (1985), upholding a public university's dimissal of a student who failed a key exam. The court of appeals had held the decision an arbitrary deprivation of property because plaintiff was the only student in seven years denied an opportunity to retake the exam, and a university pamphlet promised a retest. *Id.* at 221; *see Ewing v. Board of Regents of Univ. of Mich.*, 742 F.2d 913, 915-916 (6th Cir. 1984). On

that record, application of standards for arbitrary government action in non-university contexts might well have produced a different result. But the Court held the dismissal an "academic decision" and cited "[c]onsiderations of profound importance [that] counsel restrained judicial review," *Ewing*, 474 U.S. at 225, including the right to decide "who may be admitted to study." *Id.* at 226 n. 12. The "narrow avenue for judicial review" the Court set asked only whether the decision "[was] such a substantial departure from accepted academic norms as to demonstrate that the faculty did not exercise professional judgment." *Id.* at 225, 227. The Court concluded that academic judgments "made daily by faculty members * * * require 'an expert evaluation of cumulative information and [are] not readily adapted to the procedural tools of judicial or administrative decisionmaking.' " *Id.* at 226 (quoting *Horowitz*, 435 U.S. at 89-90).

The other branches of government, too, in decisions with profound consequence for American colleges and universities, chose to leave the conduct of higher education to educators. Thus, in the Administration of George Washington, Congress rejected establishment of a national university that would set federal standards for all of the new nation's colleges. 1 Richard Hofstadter and Wilson Smith eds., *American Higher Education: A Documentary History* 157 (1961). (Congress greeted a similar proposal by John Quincy Adams "with a gale of laughter." Edward H. Reisner, *Antecedents to the Federal Act Concerning Education*, 11 Educational Record 196, 197 (July 1930).) Had the idea of a national university carried, the United States likely would have developed the more centralized, governmental control of higher education characteristic of the European nations. The decision not to establish such an institution or a charter-granting federal ministry of education—a decision of which Justice Marshall was aware when he addressed Dartmouth College's case—preserved the pluralism, adaptiveness, and will to innovate that remain American higher education

hallmarks. *See* Henry Rosovsky, *Highest Education,* 197 The New Republic 13 (1987) (citing competition as a key to universities' success). Thus Thomas Jefferson founded a university in Virginia based on the "illimitable freedom of the human mind * * * to follow truth wherever it may lead." Roy J. Honeywell, *Educational Works of Thomas Jefferson* 99 (1931).

The design of federal support to higher education has reinforced institutional authority. In the Morrill Land-Grant Act, 12 Stat. 503 (1862), Congress granted 11,000 square miles of land to states for agricultural and mechanical arts colleges, "without excluding other scientific and classical studies." *Id.* at 504. By then the principle of federal government abstention from judgments about the conduct of higher education was so engrained that President Buchanan vetoed an earlier version of the Act as an unconstitutional exercise of federal power. *See* Carl Swisher, *American Constitutional Development* 374 (1943). Unquestionably the Morrill Act was a transformative assertion of federal interest in higher education. Yet the Act imposed virtually no requirements on the type of institution or curriculum that could benefit from this massive grant. *See* 12 Stat. 504; *Hamilton*, 293 U.S. at 258-259 (state accepting federal land-grants "remain[ed] untrammeled by federal enactment and [was] entirely free to determine for itself" the content and objectives of instruction). Instead of drawing a federal blueprint, Congress mandated flexibility that produced an extraordinary range of institutions and programs, prompting one educator to observe that "of all the good fortune which has attended the carrying out of the act of 1862, this variety of plans and methods in the various states was the best." Earle D. Ross, *Democracy's College: The Land-Grant Movement in the Formative Stage* 68-69 (1942) (quoting Andrew D. White).

In the most important 20th century higher education laws, the government similarly favored educators' authority. The first of these, the Servicemen's Readjustment Act of 1944

("the GI Bill")—at the time the most far-reaching financial boost to higher education in the nation's history—again provided aid in a manner that maximized institutional autonomy in the educational realm. *See* 58 Stat. 288. Congress rejected proposals that would have prescribed detailed standards for institutions to receive aid, and directed that "no department, agency, or officer of the United States * * * shall exercise any supervision or control, whatsoever, over * * * any educational or training institution." 58 Stat. 289. By structuring the aid with few prescriptions on the types of institutions or programs for which it could be used, the adopted approach reaffirmed the value of competition among institutions, each with its own educational model, as the best way to promote quality higher education. *See* House Rep. No. 1418, 78th Cong., at 3 (1944); Trow, *Federalism in Higher Education, in Higher Learning in America* at 58-59.

In the second major 20th century enactment of federal support for higher education, the Higher Education Act of 1965, Pub. L. No. 89-329, 79 Stat. 1219 (1965), and amendments to it approximately every six years since,[2] Congress again and again rejected proposals to assert federal authority over colleges' and universities' educational judgment. In legislating the modern mechanisms of federal student aid, Congress rejected grants to institutions as the primary device, close federal regulation of educational judgment, and centralized standard-setting. Instead, the Act preserves the institutions' independence and pluralism, by funneling aid to individual students who may choose among several thousand institutions. *See* 79 Stat. 1263 (requiring regulations "leav-

[2] Education Amendments of 1972, Pub. L. No. 92-318, 86 Stat. 235; Education Amendments of 1978, Pub. L. No. 95-561, 92 Stat. 2143; Education Amendments of 1984, Pub. L. No. 98-511, 98 Stat. 2366; Higher Education Amendments of 1986, Pub. L. No. 99-498, 100 Stat. 1268; Higher Education Amendments of 1992, Pub. L. No. 102-325, 106 Stat. 448; Higher Education Amendments of 1998, Pub. L. No. 105-244, 112 Stat. 1581.

ing opportunity and flexibility for the development of State plan standards and methods that will best accommodate the varied needs of institutions"); Chester E. Finn, Jr., *Scholars, Dollars and Bureaucrats* 61 (1978). The federal student aid program addresses institutional eligibility to receive and disburse aid through a highly decentralized, non-governmental accreditation system to the expert authority of which the institutions submit individually. *See* 20 U.S.C. §§ 1001-1002.

The Executive Branch has repeatedly held that colleges and universities should have leeway to pursue student diversity. Presidential administrations for a quarter century have affirmed that the institutions may consider race and ethnicity in admissions as well as financial aid. *See, e.g.*, 34 C.F.R. § 100.3(b)(6)(ii); 44 Fed. Reg. 58,509, 58,510 (Oct. 10, 1979); 56 Fed. Reg. 64,548 (Dec. 10, 1991); 59 Fed. Reg. 8756, 8760-62 (Feb. 23, 1994); Letter from Judith A. Winston, Gen. Counsel, Dep't of Educ. to College and Univ. Counsels 2 (Sept. 7, 1995); Letter from Walter Dellinger, Acting Solicitor Gen. to Judith A. Winston, Gen. Counsel, Dep't of Educ. 2 (Apr. 10, 1997).

Particular deference is owed educators' judgment about education because such matters require evaluation of cumulative information for which those responsible for higher education are best qualified. *See Ewing*, 474 U.S. at 226. How, for example, the mix of students affects learning involves considerations educators are best equipped to gauge. Such judgments require knowledge of campus and classroom dynamics, cognitive processes, how to nurture students' capacity for moral reasoning, and other specialized knowledge in which educators are trained.

Further, such judgments depend on the institution's precise mission. The education a small liberal arts college aims to impart may call for a student body different than that a flagship state university needs; the student body a secular

university seeks may ill-suit an institution committed to a delicate balance of Catholicism and denominational inclusiveness. And institutions' needs evolve over time. To prevent the institutions from considering qualified applicants from any group or background would truncate American colleges' and universities' historic right to assemble students in a way that fits the institutions' educational philosophies—philosophies that with salutary effect are themselves extraordinarily varied. *See* Carnegie Comm'n on Higher Educ., *Reform on Campus: Changing Students, Changing Academic Programs* 35 (1972).

The authority of colleges and universities in educational matters reaches not only "'[t]eachers and students [who] must always remain free to inquire, to study and to evaluate,'" *Keyishian v. Board of Regents of Univ. of N.Y.*, 385 U.S. 589, 603 (1967) (quoting *Sweezy*, 354 U.S. at 250), but also "autonomous decisionmaking by the academy itself." *Ewing*, 474 U.S. at 226 n.12. To that proposition the federal government with excellent effect has repeatedly assented for two centuries, in reliance on the fiduciary duty of those charged with maintaining the institutions.

Amici certainly do not suggest that higher education is immune from law. For example, invidious discrimination rooted in pernicious notions of racial inferiority is unlawful no matter who practices it. *See, e.g., Sweatt v. Painter*, 339 U.S. 629 (1950). And the jurisdiction of the federal government does not end at the campus gate. *See University of Pa. v. EEOC*, 493 U.S. 182 (1990). But if one lesson can be distilled from the historical relationship between the United States government and higher education, it is that when educators exercising professional judgment conclude that there is powerful educational basis for a practice, government should be loath to bar it.

II. LEADERS OF ALL TYPES OF COLLEGES AND UNIVERSITIES HOLD THAT RACIAL AND ETHNIC STUDENT DIVERSITY IS EDUCATIONALLY VALUABLE.

Educators' knowledge that student diversity in higher education fosters learning is not new. They began to discuss the benefits of diversity at least "as early as the mid-nineteenth century." Harvard Univ., *The President's Report 1993-1995*, at 3. Cardinal Newman called for colleges at which "a multitude" of students would "come together and freely mix with each other," where "they are sure to learn one from another, even if there be no one to teach them." *Id.* at 4. As educators came to see the contribution race and ethnicity diversity bring to education, nearly all leading colleges and universities sought admission of more students from underrepresented minority groups, adding race and ethnicity to the traditional range of diversity-enhancing factors. The efforts were fruitful and continue. *See, e.g.*, William B. Harvey, *Minorities in Higher Education 2001-2002: Nineteenth Annual Status Report* 1-2 (2002).

Educators see at close range the value of student diversity. As Harvard's president observed,

> A diverse educational environment challenges [students] to explore ideas and arguments at a deeper level—to see issues from various sides, to rethink their own premises * * *.

Neil L. Rudenstine, *Why a Diverse Student Body is So Important*, The Chronicle of Higher Educ. B1 (Apr. 19, 1996). *See* American Council on Educ., *Making the Case for Affirmative Action in Higher Education: What You Can Do to Safeguard Affirmative Action on Campus and in Your Community* 24 (March 1999); *id.* at 21-26 (reporting public statements by the presidents of 11 public and independent institutions); Harold T. Shapiro, *Affirmative Action: A*

continuing discussion -- A continuing commitment, Princeton Weekly Bulletin (Oct. 16, 1995).

Leaders of higher education institutions of every type, [3] faculty and administration, hold that diversity fosters learning. *See* American Ass'n of State Colls. and Univs. ("AASCU"), *Policy on Racism and Campus Diversity* (Mar. 1989); AASCU, *Access, Inclusion and Equity: Imperatives for America's Campuses* 32 (1997); *On the Importance of Diversity in University Admissions*, N.Y. Times, Apr. 24, 1997, at A27 (statement of Association of American Universities). Without it, "the quality and texture of * * * education * * * will be significantly diminished," and the institutions' role hindered. *Id. See also, e.g.*, American Ass'n of Community Colleges, *Statement on Inclusion* (Apr. 12, 1997); ACE Bd. of Directors, *Statement on Affirmative Action and Diversity* (May 25, 1995); Council of Graduate Schools, *Building an Inclusive Graduate Community: A Statement of Principles*, 30 Communicator 1 (June 1997); American Ass'n of Univ. Professors, *Affirmative Action*, 83 Academe 38 (July-Aug. 1997); Letter from David Ward, President, American Council on Education on behalf of 38 associations to President George W. Bush, January 10, 2003 (*available at* http://www.acenet.edu/washington/letters/2003/01january/Bush.cfm). [4]

We describe below the basis for educators' judgment that student diversity, including racial and ethnic diversity, is essential to higher education, and why student diversity in higher education is a compelling governmental interest.

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[3] A letter from a coalition of 32 higher education associations stating their members' commitment to diversity is reprinted in *Making the Case for Affirmative Action*, at 37-38.

[4] *Amici* will provide the Court copies of any statement or publication cited in this brief that the Court indicates it wishes to receive.

III. STUDENT DIVERSITY IS A COMPELLING GOVERNMENTAL INTEREST.

A. Educators' Belief That Student Diversity Advances Higher Education's Mission Has Ample Basis.

1. Diversity is essential to basic purposes of higher education.

Educators regard several aims as basic to higher education. Student diversity helps to achieve each: To enable students to lead "the examined life"; to prepare them to maintain the robust democracy that is their inheritance; and to give them tools with which to sustain economic productivity. Each of those aims entails breaking down barriers that isolate the student from the world he or she needs to know.

a. Diversity fosters the examined life.

A venerable purpose of higher education is to foster "the examined life." That is the focus of educators who view higher learning as desirable for its own sake, apart from its economic utility. *See* Robert M. Hutchins, *The Higher Learning in America* (Transaction Publishers 1995) (1936); J.H.C. Newman, *The Idea of a University* (M.J. Svaglic ed., Univ. of Notre Dame Press 1982) (1873). These educators consider the crucial work of education to be challenging students' embedded preconceptions, including the most deeply-held values. Only by critically examining those preconceptions can the student gauge rationally whether they are worthy. Educators who hold that the highest aim of colleges and universities is to develop students' powers of reason emphasize teaching how to think logically, how to expose fallacy, and how to test assumption through rigorous questioning and dialectic.

These educators believe that developing the powers of analysis in this way is not merely one among many skills to be taught; it is the chief skill, because on it rest understanding and freedom. Socrates thought knowledge and freedom so

essential, and so dependent on close reasoning, that the unexamined life is not worth living. The purpose of education, held the Stoics who carried his idea forward, is to confront the student's passivity, challenging the student's mind to take charge of its own thought. *See* Martha C. Nussbaum, *Cultivating Humanity: A Classical Defense of Reform in Liberal Education* 28 (1997). To strengthen the ability to reason is to enable the student to determine what to believe, what to say, and what to do, rather than merely to parrot thoughts, words, and actions of convention, friends or family. Production of rational minds is a noble higher education goal.

Diversity contributes to the process of learning, on which the powers of reason depend. A precept of developmental psychology is that we learn by formulating, revising, and refining conceptions of the world. Peter B. Pufall, *The Development of Thought: On Perceiving and Knowing, in* Robert Shaw & John Bransford, *Perceiving, Acting, and Knowing: Toward an Ecological Psychology* 173-74 (1977). We learn when shaken by new facts, beliefs, experiences, and viewpoints. The student assimilates the new data so that they fit the existing conception, or revises the conception to accommodate the new data. This "disequilibration," as Jean Piaget called it, and the subsequent restoration of cognitive balance, force learners to refine their thinking. Piaget taught that "disequilibration" experiences have greatest impact when they come from "social interaction." Jean Piaget, *Piaget's Theory, in* 1 *Carmichael's Manual of Child Psychology* (P. H. Mussen ed., 3d ed. Wiley 1970). A student, confronted by a peer who has a new or unexpected way of looking at the world, meets that perspective as an equal, and can explore and absorb it more fully than if merely informed of it in, for example, a lecture. *See, e.g.*, Diane N. Ruble, *A Phase Model of Transitions: Cognitive and Motivational Consequences*, 26 Advances in Experimental Social Psych. 163, 171 (1994). Colleges and universities supply, David

Ricardo observed, "that collision which is obtained only in society and by which a knowledge of the world and its manners is best acquired." F.W. Garforth, *Educative Democracy: John Stuart Mill on Education in Society* 164 (1980).

These bedrock principles of developmental psychology, to which educators at all levels subscribe, teach that exposing students to an extraordinary array of peer life experiences and perspectives is critical to learning. The familiar, which tends to reinforce preconception, is less valuable; the new and different are food for intellectual growth. Student diversity provides all learners opportunities to develop their intellects, by exposure to increasingly complex and nuanced models presented by peers. These new perspectives and experiences are especially educational when encountered in direct interaction with a peer, because peer encounters entail the give-and-take and the emotional processes that promote complex thinking.

Diversity thus awakens students from the sleepy "unexamined life" against which Socrates warned. A campus or classroom occupied by students from diverse backgrounds exposes each to a broader array of vantage points from which to view his or her own values than does a classroom of like-minded students whose experiences are similar. Of course, students will not and should not always accept the new perspectives and abandon their own. Higher education teaches students to employ reason to decide for themselves which belief is closest to the truth. And students in diverse institutions often learn that anticipated differences in perspectives or views do not exist, or do not correlate as expected with race or ethnicity. Preconception is thereby dispelled.

b. Diversity prepares students for citizenship.

A second purpose of higher education is to prepare students for citizenship. An educated citizenry is the predicate of a

thriving democracy. *Mueller v. Allen*, 463 U.S. 388, 395 (1983); *DeRolph v. State*, 677 N.E.2d 733, 736 (Ohio), *clarified*, 678 N.E.2d 886 (Ohio 1997). Colleges and universities seek to develop students' capacity not only to comprehend and reach their own informed views on issues of public import, but also to engage in deliberative aspects of democracy—to interact and debate with other citizens, listen with an open mind, and persuade—so as to achieve collective solutions to public problems. The "Constitution presupposes the existence of an informed citizenry prepared to participate in governmental affairs." *Board of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 876 (1982) (Blackmun, J., concurring). Government has long conceived higher education as an engine to ready students for citizenship in "a common vessel." *See* David J. Barron, *The Promise of Cooley's City: Traces of Local Constitutionalism*, 147 U. Pa. L. Rev. 487, 543-44 (1999).

A diverse student body demonstrably prepares students for citizenship. (*See* Appendix to defendants' motion for summary judgment, expert report of Patricia Gurin at 18, R. 162). Diversity of backgrounds tends to broaden and give more credibility to campus discussion and debate by exposing students to perspectives borne of different life experiences. Such exposure makes students better-informed voters, jurors, school board and neighborhood association members, and engaged participants in consideration of public affairs. Effective civic participation depends on ability to work with those whose backgrounds are different; students educated in a diverse setting are better prepared to work with fellow citizens from all walks of life. "Learning is not merely the acquiring of mastery over intellectual subject matter * * *. [I]n our schools and colleges, every citizen of the world should become 'at home' in the human 'state.' " Alexander Meikeljohn, *Education Between Two Worlds* 277 (1942).

Student diversity in higher education thus takes students

> out of the narrow circle of personal and family selfishness * * * accustoming them to the comprehension of joint interests, the management of joint concerns—habituating them to act from public or semi-public motives and guide their conduct by aims which unite instead of isolating them from one another.

John Stuart Mill, *On Liberty, in Three Essays* 134 (Oxford Univ. Press 1975) (1859).

c. Diversity enhances education for economic and scientific progress.

A third aim of higher education is to prepare students to contribute to economic, scientific, and social progress, and function effectively in the volatile economy. Some academics once held the vocations irrelevant to higher education, *see* Hutchins, *The Higher Learning in America*, at 33, a view long outmoded. The need for higher education to be economically useful is no recent insight. Thomas Jefferson added "practical" studies to the classical subjects in the University of Virginia curriculum. *See* John S. Brubacher, *On the Philosophy of Higher Education* 4 (1982). Congress time and again endorsed higher education's role in providing training, and appropriated funds to support training. *See, e.g.*, Morrill Land-Grant Act, 12 Stat. 503; Job Training Partnership Act, 29 U.S.C. § 1501 *et seq.;* Workforce Investment Act of 1998, 29 U.S.C. § 2801 *et seq*. Undeniably, colleges and universities today must teach students skills they need to maintain American leadership in commerce, law, medicine, and technology.

Although more pressing than ever before, the need to train students for the fast-emerging global economy has origins in classical texts from which American beliefs about higher education derive. Asked where he came from, Diogenes answered, "I am a citizen of the world," a concept that

influenced American thought through writings of Paine, Emerson, and Thoreau. Nussbaum, *Cultivating Humanity*, at 52-53.

Higher education must prepare professionals and business leaders equipped to function with diverse customers, clients, co-workers, and business partners. *See* Raymond V. Gilmartin, *Diversity and Competitive Advantage at Merck*, Harv. Bus. Rev. 146 (Jan. - Feb. 1999). Students who have had scant interaction with peers of different races and ethnicities are hampered when they graduate into a nation in which minorities generate more than $600 billion in purchasing power and are more than one-third of new entrants into the workforce. "Our success as a global community is as dependent on utilizing the wealth of backgrounds, skills and opinions that a diverse workforce offers, as it is on raw materials, technology and processes," said a leading business executive. William G. Bowen & Derek Bok, *The Shape of the River* 12 (1998).

If the United States is to remain the world's economic pace-setter, colleges must prepare students whose views are not parochial. So, too, in fields such as law, the natural sciences, and medicine, where international collaboration is increasingly essential, students today must receive *direct* experience with people of different races and ethnicities. They cannot adequately acquire it from books and will sorely need it. *See* Arthur H. Compton, *Foreword to* Huston Smith, *The Purposes of Higher Education* xiv (1955).

d. By breaking down barriers, diversity advances a chief purpose of higher education.

One goal unifies the foregoing aims of higher education: To enable students to overcome barriers that separate them from one another, divide them from the world they need to know, and block their growth. The developing theme of American higher education from the start has been to eradi-

cate divisions, distinctions, and differences that limit and impede students, and thereby to teach critical self-reflection and impart knowledge. That theme, perhaps more than any other, has defined the role and achievement of higher education in our society.

"The 'American people have always regarded education and [the] acquisition of knowledge as matters of supreme importance.' " *Plyler v. Doe*, 457 U.S. 202, 221 (1982) (citation omitted). The Founders saw higher education as essential to train the nation's leaders who, John Adams held, should be recruited not from among "the rich or the poor, the high-born or the low-born, the industrious or the idle; but all those who have received a liberal education." Frank Donovan ed., *The John Adams Papers* 182 (1965). They believed that education institutions must build and reinforce bonds among citizens. Even in an era when college was accessible only to the well-placed few, they advocated common schools to bring together the nation's young and instill a sense of national community. Noah Webster, *On the Education of Youth in America* (1790), *in Essays on Education in the Early Republic* 66 (Frederick Rudolph ed., 1965); Carl F. Kaestle, *Pillars of the Republic: Common Schools and American Society 1780-1860*, at 7 (Eric Foner ed. 1983) (quoting Benjamin Rush). Inculcating not only "an ability" but also "an inclination" "to serve mankind, one's country, friends and family," wrote Franklin, is "the great Aim and End of all learning." Benjamin Franklin, *Proposals Relating to the Education of Youth in Pennsylvania* 30 (1749, reprint 1931).

Removal of barriers is the essence of American higher education because "[a] democracy is more than a form of government; it is primarily a mode of associated living" that depends on "communicated experience." John Dewey, *Democracy and Education* 101 (Free Press 1966) (1916). We demand even more of graduates as the nation "break[s] down * * * barriers of class, race, and national territory,"

because such a society produces "more numerous and more varied points of contact" and "a greater diversity of stimuli to which an individual has to respond." *Id.*

Surmounting barriers is the essence of higher education because it is central to expanding horizons, developing capacities, and deepening understanding. "The worthy fruit of academic culture is an open mind * * *." Charles William Eliot, *Inaugural Address as President of Harvard College* (1869), *in Educational Reform: Essays and Addresses* 8 (1905). Recoiling from the suggestion that "the scholar should be a recluse," Emerson wrote: "Only so much do I know, as I have lived." Ralph Waldo Emerson, *The American Scholar, in The Portable Emerson* 32 (1946). "Is it not true," he asked, "that every landscape I behold, every friend I meet, every act I perform, every pain I suffer, leaves me a different being than that they found me?" Ralph Waldo Emerson, *Education, in The Portable Emerson*, at 251. Bertrand Russell equated intellectual "vitality" with "interest in the outside world," which he held a key aim of education. Bertrand Russell, *On Education, in* Steven M. Cahn, *The Philosophical Foundations of Education* 295 (1970).

Education is far more than transmission of desiccated knowledge from teacher to student. That is merely the beginning of it. The very word "educate" derives from the Latin "educe", "to draw out." Ideas must be "utilised, or tested, or thrown into fresh combinations." Alfred North Whitehead, *The Organisation of Thought, Educational and Scientific* 4 (1974). "There is only one subject-matter for education, and that is Life in all its manifestations." *Id.* at 13.

The history of American higher education is a progression of overcoming barriers to learning. Examples follow. *Religious barriers*: Oxford and Cambridge maintained doctrinal tests for admission until 1870. American colleges never did. Brubacher and Rudy, *Higher Education in Transition* at 9. *Geographical barriers*: On the eve of the

Civil War, contact in college between a New Englander and a Southerner was valued as "a sort of education for its own sake." Henry Adams, *The Education of Henry Adams* 58 (1927). *Vocational barriers*: The view was widely held even in those days that colleges owed a responsibility to American society to prepare a wide spectrum of the population for the professions and every walk of life. *See* Francis Wayland, *Thoughts on the Present Collegiate System in the United States* (1842) (cited in Merle Curti, *The Growth of American Thought* 352 (1964)). *Factional barriers*: By the late 19th century, as larger numbers advanced to higher education, educators saw that "a great university exerts a unifying social influence." Charles William Eliot, *The Aims of the Higher Education in Educational Reform: Essays and Addresses* 234 (1905); *see* Oscar Handlin & Mary F. Handlin, *The American College and American Culture: Socialization as a Function of Higher Education* (1970). *Class barriers*: Reformers such as Horace Mann saw in universal education the way to strengthen a sense of national community among rich, middle class, and impoverished Americans. Merle Curti, *Human Nature in American Thought: A History* 182 (1980). A decreased emphasis on class and family status followed at elite institutions. *Gender, ethnicity, and race barriers*: In the 20th century, the institutions' doors opened wider than ever before, with mass availability of quality higher education. Large numbers of immigrants were admitted to college. As president of Princeton, Woodrow Wilson advocated interaction among students from different backgrounds. *See* Woodrow Wilson, *We Can Lead in Social Example: Report to the Board of Trustees* (June 10, 1907), *in A Day of Dedication: The Essential Writings and Speeches of Woodrow Wilson* 80 (Albert Fried ed., 1965). Formerly all-male leading institutions admitted women. Progress, especially in overcoming ethnicity, race, and other barriers continued in recent decades, fostered by civil rights laws, notably the Civil Rights Act of 1964, that prohibited exclusion—and by government

policies that encouraged educators to compose student bodies based on the educational benefits of inclusion for all students.

Today, facing uniquely contentious, knotty issues of race and ethnicity, higher education stands poised to transcend this most formidable barrier, to confront the great issue of our age. Having caught a glimpse of the fruits that true diversity brings—in historical terms, a fleeting glimpse—is it not understandable that those entrusted with the leadership of higher education warn against a course that threatens student diversity? Would it not be harsh irony if higher education were barred from felling this last, highest barrier, in the name of laws enacted to remove the racial and ethnic divisions among Americans? Would history not see grave error in such a course?

2. Racial and ethnic diversity is valuable in a student body because salient to the world in which we live.

Obviously, racial and ethnic diversity is but one feature of a student body that colleges and universities must have to achieve their purposes. Applicants are asked to demonstrate that they are, for example, academically prepared, industrious, curious, and accomplished. And the precise qualifications an institution seeks depend on its nature and particular mission. Racial and ethnic student diversity plainly is insufficient to sustain American higher education. But it is necessary.

Race and ethnicity do not dictate a student's viewpoint, nor does any viewpoint correlate absolutely with any group. But because it is indisputable that, for example, being black or being white often affects how a person is treated or perceived, students of different races and ethnic origins often bring a range of special experiences to the classroom. The interchange of these experiences is exactly what allows students to learn from each other. *See, e.g.*, Kent D. Syverud, Expert Report of Kent D. Syverud (submitted in *Grutter v.*

Bollinger, E.D. Mich. No. 97-CV75928). Effective communication of experience

> requires getting outside of it, seeing it as another would see it, considering what points of contact it has with the life of another so that it may be got into such form that he can appreciate its meaning * * *. [O]ne has to assimilate, imaginatively, something of another's experience in order to tell him intelligently of one's own experience.

John Dewey, *Democracy and Education* 5-6 (Free Press 1966) (1916).

Contrary to the canard voiced by some opponents of diversity-promoting admissions practices, the educational value of diversity derives not from a false assumption that all members of one race think alike or that race is a proxy for viewpoint. Rather, diversity enables students to discover the falsity of such stereotyped, malignant assumptions. *See* Jonathan R. Alger, *The Educational Value of Diversity*, 83 Academe 20 (Jan. - Feb. 1997).–

Admissions officers, even when able to learn much about an applicant from recommendations, essays, and interviews, cannot predict what light that applicant will shed on each issue that will be addressed in the classroom. But by considering for admission different cross-sections of the applicant pool, an institution can ensure that an exceedingly varied range of perspectives is likely to be represented in the shared processes of learning. To bar consideration of race and ethnicity would deprive institutions of a salient cross-section, and would reject even the *possibility* that a particular black, Hispanic or native American student will add something of value another student would not.

In seeking diversity along a great many dimensions, colleges and universities strive to replicate the complexity and multiplicity of human experiences that occur outside the campus. Thus, although neither race nor ethnicity is by any

means the only pertinent component of diversity, their exclusion from the mix would create in the academy a distorted model of the world that awaits students. An otherwise heterogeneous student body if racially or ethnically homogeneous would be not genuinely diverse, but a flawed simulacrum.

3. Research confirms that racial and ethnic diversity improves educational outcomes.

Social science findings demonstrate the value of racial and ethnic diversity to achievement of higher education's purposes, and show that the interactions diversity allows yield concrete educational benefits for white as well as minority students. Professor Alexander Astin collected data on 25,000 students in 217 four-year colleges. He assessed attitudes, values, beliefs, career plans, achievement, and degree completion. He analyzed how students were affected by "Institutional Diversity Emphasis." He found that "strong emphasis on diversity" is associated with "widespread beneficial effects on a student's cognitive and affective development." Alexander W. Astin, *Diversity and Multiculturalism on the Campus: How are Students Affected?*, 25 Change 44, 45 (Mar./Apr. 1993). Students who interact more with students of different backgrounds, and have an opportunity to discuss issues of race and culture, tend to be more successful in college. *Id.* at 46. Socializing with members of other ethnic groups is positively associated with many measures of academic development and achievement. *Id.* "[T]he weight of the empirical evidence," Professor Astin found, "shows that the actual effects on student development of emphasizing diversity and of student participation in diversity activities are overwhelmingly positive." Alexander W. Astin, *What Matters in College?* 431 (1993).

Students who interact with those from different backgrounds demonstrate greater gains in critical thinking and "active" thinking, as well as higher retention rates and degree aspirations. *See* Jeffrey F. Milem, *The Educational Benefits*

of Diversity, in Compelling Interest: Examining the Evidence on Racial Dynamics in Higher Education (Mitchell Chang *et al.* eds., 2000); Patrick T. Terenzini *et al.*, *Racial and Ethnic Diversity in the Classroom: Does it promote student learning?* 72 J. of Higher Educ. 509, 519 (2001); Patricia Gurin *et al.*, *Diversity and Higher Education: Theory and Impact on Educational Outcomes*, 72 Harvard Educ. Rev. 330, 351 (2002). Students, particularly whites, who have contact across racial groups express more satisfaction with college. Octavio Villalpando, *Comparing the Effects of Multiculturalism and Diversity on Minority and White Students' Satisfaction with College* 12 (Nov. 9, 1994) (paper presented at Annual Meeting of Association for the Study of Higher Education, Nov. 10-13, 1994). Law students report that racial and ethnic diversity positively affects their education. Gary Orfield & Dean Whitla, *Diversity and Legal Education: Student Experiences in Leading Law Schools, in Diversity Challenged: Evidence on the Impact of Affirmative Action* (Gary Orfield & Michael Kurlaender eds., 2001). Undergraduates who study with students of a different race or ethnicity report more growth in acceptance of people of different races and cultures, and tolerance of those with different beliefs. Sylvia Hurtado, *Linking Diversity and Educational Purpose: How Diversity Affects the Classroom Environment and Student Development, in Diversity Challenged* at 8-9.

Research also shows that institutional commitment to diversity is linked with student academic success and relatively low racial tension on campus (Daryl G. Smith *et al.*, *Paths to Success: Factors Related to the Impact of Women's Colleges*, 66 J. of Higher Educ. 245 (May/June 1995); Hurtado, *Linking Diversity and Educational Purpose*), supports retention of minority students (Daryl G. Smith *et al.*, *Diversity Works: The Emerging Picture of How Students Benefit* v-vii (Ass'n of Am. Colleges and Univs. 1997)), and, overall, has powerful educational impact on white and minority

students (*id.*; *see* R. 162 Gurin Report; ACE and AAUP, *Does Diversity Make a Difference? Three Research Studies on Diversity in College Classrooms* (2000)). Research findings show, too, positive effects of racially diverse education on students' subsequent behavior at work; attendance at a racially diverse institution affects decisions students, white and black, later make concerning those with whom to work and socialize. Marvin P. Dawkins & Jomills Henry Braddock II, *The Continuing Significance of Desegregation: School Racial Composition and African American Inclusion in American Society*, 63 J. of Negro Educ. 394, 403 (Summer 1994).

The argument of opponents of race- and ethnicity-consciousness in admissions, that it denies admission to students who have more merit, rests on a flawed conception of merit in the admissions context. In the admissions process, administrators and faculty seek to develop the best possible mix of students to promote learning by all who enroll. The student who brings to higher education life experience that enriches fellow students' understanding brings value to, and merit for, the institution. Colleges and universities continuously appraise that which best benefits their entire student population, mindful that merit for admission depends on the institution's particular educational needs.[5]

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[5] *See* Letter from L. McGovern, U.S. Department of Education, Office for Civil Rights ("OCR"), to Dr. D. Randel, President, University of Chicago, at 1 (Aug. 14, 2000) (universities have "very broad discretion" to pursue educational objectives through admissions); Letter from Gary Jackson, OCR, to Dr. C.L. Tien, Chancellor, Univ. of Cal. at Berkely (Sept. 25, 1992); Letter from Judith A. Winston, General Counsel, U.S. Department of Education, to College and University Counsel (July 30, 1996).

B. Government Has a Compelling Interest in the Quality of Higher Education.

The interest of government in the quality of higher education is undeniable. *See, e.g.*, John K. Galbraith, *The New Industrial State* 370-371 (1967); John F. Kennedy, Message to Congress (1962), quoted in 1968 U.S.C.C.A.N. 4055. The strength of higher education has always been linked to the nation's success. "Above all things," wrote Jefferson, "I hope the education of the common people will be attended to." 1 *The Debate on the Constitution* 213 (Bernard Bailyn ed. 1993) (quoting letter of T. Jefferson to J. Madison, Dec. 20, 1787). Many who advocated adoption of the Constitution believed that "[a] well-educated populace would possess as great a share of happiness, as any nation has hitherto enjoyed." 2 *The Debate on the Constitution* 513 (quoting David Ramsay's address in South Carolina on ratification of the United States Constitution). One of our greatest historians concluded that with the passing of the western frontier the country's colleges, by producing trained and responsible leaders, would be the salvation of American democracy. Frederick Jackson Turner, *The Frontier in American History* 256-257 (1920). Those charged with advising the government on science have counseled as the first priority "that university science should be strong as possible." *See, e.g.*, President's Science Advisory Comm., *Scientific Progress, The Universities, and The Federal Government* (1960). Higher learning is "the most valued spiritual asset of civilized mankind," said Thorstein Veblen in *The Higher Learning in America* 8 (1957).

Vibrant, broadly accessible colleges and universities contribute to our political system's strength and stability. James Bryce, 2 *The American Commonwealth* 550-51, 567-68 (1888); *see* James Bryce, *University and Historical Addresses* 162-163 (1913). They "train the mind of the nation." Josiah Royce, *Present Ideals of American University Life*, 10 Scribner's Magazine 387-388 (Sept. 1891).

> There seems little doubt that American colleges have realized their ideals of service. They have never been isolated "ivory towers" but, rather, high "watchtowers." They have played a decisive role in the advancement of American democracy. They have furnished the professional training needed by a growing nation. They have contributed to the efficiency of its economy by making possible the specialization required by a technological age. They have helped advance man's knowledge of himself and his universe. And, all the while, they have thus been increasing the health, wealth, and power of the United States.

Brubacher & Rudy, *Higher Education in Transition* at 428-429.

CONCLUSION

Government has a compelling interest in the quality of higher education, and hence in student body diversity, including racial and ethnic diversity.

Respectfully submitted,

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ADDENDUM: *AMICI* ON THIS BRIEF

- American Council on Education. See description at page 2 of brief.
- American Anthropological Association. Represents more than 11,000 archaeologists and anthropologists in the academy and practice.
- American Association of Colleges for Teacher Education. Represents approximately 735 colleges of teacher education.
- American Association of Colleges of Nursing. Represents more than 525 schools of nursing.
- American Association of Collegiate Registrars and Admissions Officers. Promotes standards and best practices in admissions, enrollment management, information technology, instructional management, and student services.
- American Association of Community Colleges. Represents 1,100 two-year institutions.
- American Association of State Colleges and Universities. Represents over 400 state colleges and universities.
- American Association of University Professors. Represents some 44,000 faculty members and research scholars; defends academic freedom and the free exchange of ideas in higher education.
- American Association of University Women. Promotes education and equity for women and girls.
- American College Personnel Association. Serves student affairs educators and administrators.

- American Dental Education Association. Represents all of the dental schools in the United States and Canada.
- Association of Academic Health Centers. Represents the health complexes of the major universities nationwide.
- Association of American Universities. Represents 62 public and private major research universities.
- Association of Baccalaureate Social Work Program Directors, Inc. Pursues excellence in undergraduate social work education.
- Association of Catholic Colleges and Universities. Facilitates exchange among and represents 214 Catholic institutions of higher education.
- Association of Chiropractic Colleges. Represents the accredited chiropractic colleges programs in the United States.
- Association of Community College Trustees. Represents over 6,000 board members who govern community, technical, and junior colleges.
- Association of Governing Boards of Universities and Colleges. Serves some 30,000 trustees, regents, and other senior administrators responsible for 1,700 colleges, universities, and independent schools.
- Association of Independent Colleges and Universities in Massachusetts. Represents 54 independent colleges and universities in Massachusetts.
- Association of Independent Colleges and Universities of Michigan. Represents and serves 47 Michigan independent, nonprofit colleges and universities.
- Association of Independent Colleges and Universities of Pennsylvania. Promotes independent higher education in Pennsylvania.
- Association of Independent Colleges of Art and Design. Represents 34 degree granting independent art and design colleges in the U.S. and more than 50 countries.
- Association of Jesuit Colleges and Universities. Represents the 28 Jesuit institutions of higher education in the United States.
- College and University Professional Association for Human Resources. Represents some 1,700 college and university human resources departments.
- Connecticut Conference of Independent Colleges. Represents accredited nonprofit independent colleges and universities in Connecticut.
- Council for Advancement and Support of Education. Represents 2,900 education institutions and other organizations.
- Council for Christian Colleges and Universities. Represents 129 Christian liberal arts colleges and graduate schools.
- Council for Higher Education Accreditation. Promotes academic quality through review and formal recognition of higher education accrediting bodies.
- Council for Higher Education of the United Church of Christ. Comprises 47 colleges, universities, seminaries, divinity schools and secondary schools.
- Council for Opportunity in Education. Expands educational opportunities for low-income and disabled students.

- Council of Graduate Schools. Represents colleges and universities engaged in research, scholarship and preparing candidates for advanced degrees.
- Council of Independent Colleges. Represents 450 independent liberal arts colleges and universities.
- Council on Social Work Education. Accredits social work degree programs.
- Educational Testing Service. Develops and administers achievement and admissions tests.
- EDUCAUSE. Promotes higher education quality through use of information technologies.
- Group for the Advancement of Doctoral Education in Social Work. Facilitates exchange of information among doctoral programs in social work.
- Hispanic Association of Colleges and Universities. Represents more than 270 Hispanic-serving institutions and associate member institutions in the states and Puerto Rico.
- Mennonite Education Agency. Strengthens education institutions associated with Mennonite Church USA.
- National Association for College Admission Counseling. Represents, and promotes ethics among, admission officers and school counselors.
- National Association for Equal Opportunity in Higher Education. Promotes access to higher education among Black students.
- National Association of College and University Business Officers. Represents chief administrative and financial officers at more than 2,100 colleges and universities.
- National Association of Deans and Directors of Schools of Social Work. Represents leaders of the accredited graduate programs in social work.
- National Association of Independent Colleges and Universities. Represents over 900 independent colleges and universities on public policy issues before the federal government.
- National Association of Social Workers. Promotes high standards in social work practice and education.
- National Association of State Universities and Land-Grant Colleges. The nation's oldest higher education association, represents approximately 210 public universities and colleges enrolling 3.1 million students in all 50 states.
- National Association of Student Financial Aid Administrators. Promotes effective administration of student financial aid.
- National Association of Student Personnel Administrators. Serves student affairs administrators at all levels.
- National Collegiate Athletic Association. Administers intercollegiate athletics for 1,200 colleges and universities, athletic conferences and sports organizations.
- Society for College and University Planning. Promotes the practice of comprehensive planning in higher education.
- United Negro College Fund. Provides financial aid to students and represents 39 private, accredited four-year historically black colleges and universities.
- United States Student Association. Promotes interests of the Nation's students.

- University Continuing Education Association. Promotes continuing higher education and expanding access to higher education.

- Washington Association of Independent Colleges and Universities. Represents liberal arts colleges in Washington State.